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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO..
10/773,600	02/06/2004	Paul J. Staniorski	KOP1265	8961
30245	7590	01/21/2005	EXAMINER	
ANTHONY EDW. J CAMPBELL PO BOX 160370 AUSTIN, TX 78716			LE, MARK T	
		ART UNIT		PAPER NUMBER
		3617		

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/773,600	STANIORSKI ET AL.
	Examiner	Art Unit
	Mark T. Le	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on ____.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) 20 is/are allowed.
 6) Claim(s) 1-19 is/are rejected.
 7) Claim(s) ____ is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 2/6/04.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. ____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: ____.

DETAILED ACTION

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

It does not identify the citizenship of each inventor.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Covington (US 4,265,399).

Covington discloses a traction device that is inherently capable of being used with a trackhoe, and has all the features recited in the instant claims, including a section 12, 13 or 14 that is readable as a bottom traction plate having spikes 17 attached to the bottom thereof, and a top traction plate in the form of mesh 18 mounted on the bottom plate.

Regarding the instant claimed top plate being "boltable" the bottom plate, as recited in claims 1 and 11, note that since the mesh 18 of Covington is inherently capable of being mounted by bolting, the instant claimed capability is considered met.

Regarding the instant claimed slots recited in instant claims 2 and 11, consider the plurality of slots in mesh 18 of Covington.

Regarding claims 3 and 12, consider bottom plate 15a and side plate 15a of Covington, which are connected at a right angle to each other.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 5-10 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covington (US 4,265,399).

Covington is applied above.

Regarding the instant claimed sizes of the top and bottom plates, it is noted that Covington does not specify the dimensions of his square plates; however, one skilled in the art would realize that the plates of the traction device of Covington must be made large enough to receive a tire that is intended to be associated with the traction device. Accordingly, it would have been obvious to one skilled in the art to make the square plates of Covington large enough, e.g. approximately 12"x12", so as to enable the traction device to receive a large tire having a corresponding width, e.g. the tire of a tractor.

Regarding the instant claimed length of the spikes, it is noted that Covington does not disclose the length of his spikes; however, since one skilled in the art would realize that the gripping effect of spikes is proportional to the length of the spikes, it would have been obvious to one skilled in the art to provide longer spikes in the structure of Covington so as to proportionally enhance the gripping effect of the traction device in deep mud or snow.

Regarding the instant claimed material being either steel, plastic or rubber, note that the conventional steel, plastic or rubber material has one or more of these expected advantages, such as high strength, light weight, corrosion resistance, and low costs, it would have been obvious to one skilled in the art to choose one of such material for forming the traction device of Covington so as to achieve the expected advantages of such material.

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6. Claims 1, 3-4 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (US 3,357,639) in view of Covington (US 4,265,399).

Peterson discloses a traction device that is inherently capable of being used with a trackhoe, and has all the features recited in the instant claims, including bottom traction plate 16, and top traction plate 17 bolted to the bottom traction plate. It is noted that Peterson bottom traction plate does not have spikes.

Covington discloses a traction device; wherein, spikes 17 are provided to enhance gripping effect.

In view of Covington, it would have been obvious to one skilled in the art to attach spikes to the structure of Peterson, in a manner similar to that taught by Covington, so as to enhance the gripping effect of structure.

Regarding the instant claimed top and bottom plates including side plates connected to the top and bottom plates at a right angle, consider the sides of plates 16 and 17 of Peterson.

Regarding the instant claimed slots, recited in claim 11, consider the slots on plate 17 of Peterson that are provided for receiving rod 18.

7. Claim 20 is allowable.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should further consider the structures of Helfman and Robertson.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 703-308-3663. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le

Primary Examiner

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mle

1/13/05